

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:

MARILYN SUE METCALFE

Debtor.

Case No. 20-60546-RKK

Chapter 7

Judge Russ Kendig

OBJECTION TO CLAIMED EXEMPTION

Now comes Anthony J. DeGirolamo, the duly appointed Chapter 7 Trustee in the above-captioned case (the “Trustee”) and hereby objects to the Debtor’s exemption claimed in life insurance policies. For his Objection, Trustee states as follows:

1. On her Schedule A/B, the Debtor listed life insurance policies as follows:
 - a. Ultimate IV, with a scheduled value of \$7,941.58 (the Ultimate IV Policy); and
 - b. Washington National Ins. Co. with a scheduled value of \$0.00 (the “Washington National Policy” and together with the Ultimate IV Policy, the “Policies”).
2. The Debtor indicated that her husband was the beneficiary on the Policies.
3. On her Schedule C, the Debtor claimed an exemption of \$7,941.58 under O.R.C. § 2329.66(A)(e)(6) and O.R.C. § 3923.19 in the Ultimate IV Policy. No exemptions were claimed in the Washington National Policy.

4. At the Debtor's Meeting of Creditors, the Debtor testified that her husband had predeceased her; therefore, he could not be the beneficiary of the Policies and the Trustee does not know who the beneficiary is. Therefore, the Trustee does not know if the Policies qualify for an exemption.

WHEREFORE, for the reasons stated above, the Trustee respectfully requests that the Court enter the order attached hereto as Exhibit A denying the Debtor's claimed exemption in the Ultimate IV Policy, and granting any other and further relief that the Court deems just and proper.

Respectfully submitted,

/s/ Anthony J. DeGirolamo

Anthony J. DeGirolamo (0059265)

3930 Fulton Drive NW, Suite 100B

Canton, Ohio 44718

Telephone: 330-305-9700

Facsimile: 330-305-9713

E-mail: ajdlaw@sbcglobal.net

CHAPTER 7 TRUSTEE

NOTICE OF OBJECTION TO CLAIMED EXEMPTION

Anthony J. DeGirolamo, Trustee, has filed papers with the Court objecting to the claimed exemption of the Debtor.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the objection without a hearing, or if you want the Court to consider your views on the objection, then by or before **June 29, 2020**, you or your attorney must:

File with the Court a written response, explaining your position at:

United States Bankruptcy Court
Ralph Regula U.S. Courthouse
401 McKinley Avenue SW
Canton, OH 44702

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

You must also mail a copy to:

Anthony J. DeGirolamo, Esq.
3930 Fulton Drive NW, Suite 100B
Canton, Ohio 44718

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief without a hearing.

Date: June 11, 2020

Signature: /s/ Anthony J. DeGirolamo
Anthony J. DeGirolamo

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2020, a copy of the foregoing Objection was electronically transmitted via the Court's CM/ECF system to those listed on the Court's Electronic Mail Notice list:

- Deborah L. Mack Debbie@Ohiofinancial.Lawyer,
R57238@notify.bestcase.com;paralegal@ohiofinancial.lawyer
- United States Trustee (Registered address)@usdoj.gov

/s/ Anthony J. DeGirolamo
Anthony J. DeGirolamo

The undersigned hereby certifies that a copy of the foregoing Objection was served via regular U.S. Mail, postage prepaid, upon those listed below, this 11th day of June, 2020.

/s/ Anthony J. DeGirolamo
Anthony J. DeGirolamo

Marilyn S. Metcalfe
335 Westlawn Drive
Ontario, Ohio 44906

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:

MARILYN SUE METCALFE

Debtor.

Case No. 20-60546-RKK

Chapter 7

Judge Russ Kendig

ORDER GRANTING OBJECTION TO CLAIMED EXEMPTION

Before the Court is the Objection to the Claimed Exemption filed by the duly appointed Chapter 7 Trustee. Based upon the record in this case, and the representations contained in the Objection, the Court hereby FINDS AND DETERMINES THAT:

1. The Court has jurisdiction over the Debtor's case and this matter pursuant to 28 U.S.C. § 1334. Venue is proper in the court pursuant to 28 U.S.C. § 1408 and § 1409, and this is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. The Debtor listed her life insurance policies as follows on Schedule A/B and indicated that her husband was the beneficiary:

a. Ultimate IV, with a scheduled value of \$7,941.58 (the Ultimate IV Policy); and

- b. Washington National Ins. Co. with a scheduled value of \$0.00 (the “Washington National Policy” and together with the Ultimate IV Policy, the “Policies”).
3. On her Schedule C, the Debtor claimed an exemption of \$7,941.58 under O.R.C. § 2329.66(A)(e)(6) and O.R.C. § 3923.19 in the Ultimate IV Policy. No exemptions were claimed in the Washington National Policy.
4. The Debtor’s husband predeceased the Debtor; therefore, he cannot be the beneficiary of the Policies.

ACCORDINGLY, for the reasons stated herein, Debtor’s claimed exemption in the Ultimate IV Policy is hereby denied.

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Prepared by:

Anthony J. DeGirolamo (0059265)
3930 Fulton Drive NW, Suite 100B
Canton, Ohio 44718
Telephone: 330-305-9700
Facsimile: 330-305-9713
E-mail: ajdlaw@sbcglobal.net

CHAPTER 7 TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that on _____, 2020, a copy of the foregoing Order was electronically transmitted via the Court's CM/ECF system to those listed on the Court's Electronic Mail Notice list:

- Anthony J. DeGirolamo, Trustee - Mansfield ajdlaw@sbcglobal.net,
ad@trustesolutions.com;amber_weaver@sbcglobal.net;AD07@trustesolutions.net
- Deborah L. Mack Debbie@Ohiofinancial.Lawyer,
R57238@notify.bestcase.com;paralegal@ohiofinancial.lawyer
- United States Trustee (Registered address)@usdoj.gov

Deputy Clerk

The undersigned hereby certifies that a copy of the foregoing Order was served via regular U.S. Mail, postage prepaid, upon those listed below, this _____ day of _____, 2020.

Deputy Clerk

Marilyn S. Metcalfe
335 Westlawn Drive
Ontario, Ohio 44906